



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 29, 1993

Ms. Alesia L. Sanchez
Legal Assistant
Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR93-705

Dear Mr. Hankins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code.¹ Your request was assigned ID# 21907.

The Texas Department of Insurance (the "department") has received a request for information concerning Title U.S.A. Insurance Corporation, specifically the sales prices of its title plants. You claim that the requested information is not subject to the Open Records Act.

You state that "[t]he information requested is in the possession of the Commissioner of Insurance, in her capacity as the court-appointed Receiver of Title U.S.A. Insurance Corporation,² in accordance with the provisions of [Insurance Code article 21.28]" and as such "the requested information is . . . in custodia legis of a judicial district court and is not collected, assembled, or maintained by or for a governmental

¹We note that the Seventy-Third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

²The requestor's letter states that he understands that Title U.S.A. has been liquidated, while the Commissioner of Insurance states that the "information requested is in the possession of the Commissioner of Insurance, in her capacity as the court-appointed Receiver of Title U.S.A. Insurance Corporation." These two statements are not necessarily inconsistent, since the receiver may sell assets of a company in receivership pursuant to section 2(g) of article 21.28 of the Insurance Code. We assume for purposes of this ruling, that the requested records are in the custody of the commissioner as receiver.

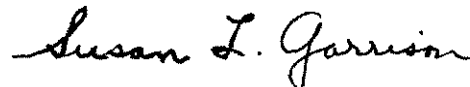
body." A prior determination of this office, Open Records Decision No. 610 (1992), held that

[t]he receiver of an insurance company appointed pursuant to article 21.28 of the Insurance Code holds the books and records of the insurer for the court. The insurer's books and records are records of the judiciary, and are therefore excepted from the provisions of the Open Records Act by [section 552.003(b) formerly] section 2(1)(H) of that statute.

Open Records Decision No. 610 (quoting summary). Accordingly, you may withhold the requested information as information not subject to the Open Records Act pursuant to section 552.003(b) of the Government Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/LBC/rho

Ref.: ID# 21907

Enclosures: Open Records Decision No. 610

cc: Mr. Joel R. Hogue
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